

Assembly Bill No. 1201

Passed the Assembly September 5, 2003

Chief Clerk of the Assembly

Passed the Senate September 2, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act to add Sections 14132.28 and 14132.29 to the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 1201, Berg. Medi-Cal: subacute services.

Existing law requires a health facility to take reasonable steps, as prescribed, before a patient is transferred due to any change in the status of the license or operation of the facility, including closure or voluntary or involuntary termination of a facility's Medi-Cal or Medicare certification, to transfer the affected patient safely and minimize possible transfer trauma.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Services under the direction of the Director of Health Services, pursuant to which medical benefits are provided to public assistance recipients and certain other low-income persons.

Existing law specifies various benefits that may be provided under the Medi-Cal program, and includes subacute services as a covered benefit, subject to utilization controls. Existing law authorizes the department to negotiate and execute agreements with health facilities that meet certain standards to provide subacute services.

This bill would require a health facility that has a subacute services provider contract with the department to comply with certain patient transfer and discharge requirements. The bill would grant to a patient the right to appeal any proposed transfer or discharge, require the facility to provide notice of this right, and apply to the appeal all rights and procedures that apply to the appeal of the transfer or discharge of a nursing facility patient.

This bill would establish notice and appeal procedures that would apply if the department decides to terminate or not renew a health facility's subacute services provider contract. The bill would require the department, after making the specified notification, to provide guidance to a health facility regarding expectations for the transfer of patients. The bill would specify facility compensation and level of service requirements that would apply prior to any transfer.



The people of the State of California do enact as follows:

SECTION 1. Section 14132.28 is added to the Welfare and Institutions Code, to read:

14132.28. (a) If the department decides to terminate or not renew a health facility's subacute care services provider contract, the department shall notify the health facility 30 days before the termination or nonrenewal becomes effective.

(b) (1) Once the department has notified the health facility pursuant to subdivision (a), the department shall provide guidance to the health facility regarding expectations for the transfer of patients. The guidance shall consider the need to minimize trauma of a patient due to transfer, and shall ensure, prior to any transfer or discharge, that the facility has complied with the transfer and discharge requirements of Section 1336.2 of the Health and Safety Code, subsection (a) of Section 483.12 of Title 42 of the Code of Federal Regulations, and any other state and federal laws applicable to the transfer and discharge of patients of a nursing facility, as defined in subdivision (k) of Section 1250 of the Health and Safety Code. The department's Medi-Cal division shall coordinate with the department's Licensing and Certification Division in developing the guidance for the protection of patients' transfer rights.

(2) Prior to any transfer, the health facility shall continue to provide the subacute level of services required by a patient and shall comply with state laws governing subacute staffing levels. The health facility shall continue to be paid commensurate with that subacute level of service. If the health facility fails to comply with applicable state laws regarding subacute staffing levels, the facility shall be paid at the facility's Medi-Cal nursing facility rate.

(3) Any health facility that has a subacute services provider contract that has been terminated or has not been renewed may not be reimbursed commensurate with the subacute level of service for patients admitted after the contract is terminated or not renewed, unless and until the facility obtains a new subacute services provider contract. The facility may be reimbursed commensurate with the subacute level of service where the patient returns to the facility during the bed-hold period. Where the patient returns to the facility following the bed-hold period, the facility shall be reimbursed at the facility's Medi-Cal nursing facility rate.



SEC. 2. Section 14132.29 is added to the Welfare and Institutions Code, to read:

14132.29. (a) A health facility that has a subacute services provider contract with the department under this chapter shall comply with the patient transfer and discharge requirements of this section.

(b) Before patients are transferred due to any change in the status of the license or operation of the facility, including the termination of the subacute services provider contract by the department, the facility shall comply with the transfer and discharge requirements of Section 1336.2 of the Health and Safety Code, subsection (a) of Section 483.12 of Title 42 of the Code of Federal Regulations, and any other state and federal laws applicable to the transfer and discharge of patients of a nursing facility, as defined in subdivision (k) of Section 1250 of the Health and Safety Code.

(c) All of the rights and procedures that apply to the appeal of the transfer or discharge of a nursing facility patient pursuant to the sections cited in subdivision (b) shall apply to an appeal pursuant to this subdivision. The facility shall ensure that each patient and patient's representative is notified of this right to appeal. The notification shall be in writing and shall be communicated in a language and manner that is understood by the patient or patient's representative.



Approved _____, 2003

Governor

